



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 100

[Docket Number USCG-2023-0176]

RIN 1625-AA08

### Special Local Regulation; Sail Grand Prix, Season 3 Race Event, San Francisco, CA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a temporary special local regulation in the navigable waters of the San Francisco Bay in San Francisco, CA in support of the San Francisco Sail Grand Prix, Season 3 race periods. This special local regulation is necessary to provide for the safety of life on these navigable waters and to ensure the safety of mariners transiting the area from the dangers associated with high-speed sailing vessels participating in the Sail Grand Prix race event. This rulemaking will prohibit persons and vessels from entering, transiting through, anchoring, blocking, or loitering within the event area adjacent to the city of San Francisco waterfront near the Golden Gate Bridge and Alcatraz Island, unless authorized by the Captain of the Port San Francisco or a designated representative.

**DATES:** This rule is effective from May 4, 2023, through May 7, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2023-0176 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call, or email Lieutenant Anthony I. Solares, U.S. Coast Guard Sector San Francisco Waterways Management Division; telephone 415-399-3585, email [SFWaterways@uscg.mil](mailto:SFWaterways@uscg.mil).

## **SUPPLEMENTARY INFORMATION:**

### **I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
COTP	Captain of the Port
PATCOM	Patrol Commander
U.S.C.	United States Code

### **II. Background Information and Regulatory History**

On December 19, 2022, the Silverback Pacific Company notified the Coast Guard of an intention to conduct the “Sail Grand Prix, Season 3” in the San Francisco Bay. In response, on March 7, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Sail Grand Prix, Season 3 Race Event; San Francisco, CA” (88 FR 14309). There we stated why we issued the NPRM and invited comments on our proposed regulatory action related to this proposed sailing race. During the comment period that ended April 7, 2023, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because in order to ensure the public and participant’s safety we must establish the special local regulation before commencement of the Sail Grand Prix race activities starting May 4, 2023.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The COTP San Francisco has determined this special local regulation to be necessary to keep persons and vessels away from the sailing race vessels, which exhibit unpredictable maneuverability and have demonstrated a likelihood during the simulation of racing scenarios for capsizing. This special local regulation will help prevent injuries and property damage that may be caused upon impact with these fast-moving vessels. The provisions of this temporary Special Local

Regulation will not exempt racing vessels from any Federal, State, or local laws or regulations, including Nautical Rules of the Road.

Under 33 CFR 100.35, the Coast Guard District Commander has authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta. Pursuant to 33 CFR § 1.05-1(i), the Commander of Coast Guard District 11 has delegated to the COTP San Francisco the responsibility of issuing such regulations.

#### **IV. Discussion of Comments, Changes, and the Rule**

As noted above, we received no comments on our NPRM, which was published March 7, 2023. In the Discussion of the Proposed Rule section of the NPRM, we incorrectly stated the proposed rule would establish a waterfront passage area, which was not included further in the Discussion or the regulatory text. This was added in error. The Coast Guard does not intend to establish a waterfront passage area within this special local regulation. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation associated with the Sail Grand Prix race event from noon to 5:30 p.m. each day from May 4, 2023, through May 7, 2023. The areas regulated by this special local regulation will be east of the Golden Gate Bridge, south of Alcatraz Island, west of Treasure Island, and in the vicinity of the city of San Francisco waterfront. The Coast Guard will establish an Official Practice Box Area, an Official Race Box Area, and a Spectator Area. An image of these proposed regulated areas may be found in the docket. The special local regulation will cover all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°48'24.3" N, 122°27'53.5" W; thence to 37°49'15.6" N, 122°27'58.1" W; thence to 37°49'28.9" N, 122°25'52.1" W; thence to 37°49'7.5" N, 122°25'13" W; thence to 37°48'42" N, 122°25'13" W; thence to 37°48'30.5" N, 122°26'22.6"

W; thence along the shore to 37°48'26.9" N, 122°26'50.5" W and thence to the point of beginning.

Located within this footprint, there will be three separate regulated areas: Zone "A", the Official Practice Box Area; Zone "B", the Official Race Box Area; and Zone "C", the Spectator Area.

Zone "A", the Official Practice Box Area, will be marked by colored visual markers. The position of these markers will be specified via Local Notice to Mariners at least two weeks prior to the event and via Broadcast Notice to Mariners at least seven days prior to the event. Zone "A" will be used by the race and support vessels during the official practice period on May 4, 2023, and May 5, 2023. Zone "A", the Official Practice Box Area, will be enforced during the official practices from noon to 5:30 p.m. on May 4, 2023, and from noon to 5:30 p.m. on May 5, 2023, or as announced via Broadcast Notice to Mariners. Excluding the public from entering Zone "A" is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone "B", the Official Race Box Area, will be marked by 12 or more colored visual markers. The position of these markers would be confirmed via Broadcast Notice to Mariners at least three days prior to the event. Only designated Sail Grand Prix race, support, and VIP vessels would be permitted to enter Zone "B." Zone "B," the Official Race Box Area, will be enforced during the official races from noon to 5:30 p.m. on May 6, 2023, and from noon to 5:30 p.m. on May 7, 2023. Because of the hazards posed by the sailing competition, excluding non-race vessel traffic from Zone "B" is necessary to provide protection from the operation of the high-speed sailing vessels within this area.

Zone "C", the Spectator Area, will be within the special local regulation area designated in paragraph (a) and outside of Zone "B", the Official Race Box Area. Zone "C" will be defined by latitude and longitude points per Broadcast Notice to Mariners. Zone "C" will be managed by

marine event sponsor officials. Vessels will be prohibited from anchoring within the confines of Zone “C.”

The duration of the establishment of the special local regulation is intended to ensure the safety of vessels in these navigable waters during the scheduled practice and race periods. This temporary special local regulation will temporarily restrict vessel traffic adjacent to the city of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island and prohibit vessels and persons not participating in the race event from entering the dedicated race area.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, locations, and duration of the special local regulation. With this special local regulation, the Coast Guard intends to maintain commercial access to the ports through an alternate vessel traffic management scheme. The special local regulation is limited in duration and is limited to a narrowly tailored geographic area with designated and adequate space for transiting vessels to pass when permitted by the COTP or a designated representative. In addition, although this rule restricts access to the waters encompassed by the special local regulation, the effect of this rule will not be significant because the local waterway users will be notified in advance via public Broadcast Notice to Mariners to

ensure the special local regulation will result in minimal impact. Therefore, mariners will be able to plan and transit outside of the periods of enforcement of the special local regulation, or alternatively, they will be able to transit the city of San Francisco Waterfront with approval from the COTP or designated representative. The entities most likely to be affected are commercial vessels and pleasure craft engaged in recreational activities.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect owners and operators of commercial vessels and pleasure craft engaged in recreational activities and sightseeing for a limited duration. This special local regulation will not have a significant economic impact on a substantial number of small entities for the reasons stated in Section V.A above. When the special local regulation is in effect, vessel traffic can safely pass around the regulated area. The maritime public will be advised in advance of this special local regulation via Broadcast Notice to Mariners.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act

addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation that will create regulated areas of limited size and duration that includes defined regulated areas for vessel traffic to pass. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. For instructions on locating the docket, see the ADDRESSES section of this preamble.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:



## **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T11-0122 to read as follows:

### **§ 100.T11-0122 Special Local Regulation; Sail Grand Prix 2022 Race Event, San Francisco, CA.**

(a) *Regulated area.* The regulations in this section apply to all navigable waters of the San Francisco Bay, from surface to bottom, encompassed by a line connecting the following latitude and longitude points, beginning at 37°48'24.3" N, 122°27'53.5" W; thence to 37°49'15.6" N, 122°27'58.1" W; thence to 37°49'28.9" N, 122°25'52.1" W; thence to 37°49'7.5" N, 122°25'13" W; thence to 37°48'42" N, 122°25'13" W; thence to 37°48'30.5" N, 122°26'22.6" W; thence along shore to 37°48'26.9" N, 122°26'50.5" W and thence to the point of beginning.

(b) *Definitions.* As used in this section:

(1) “*Designated Representative*” means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel, or a Federal, State, or local officer designated by or assisting the Captain of the Port San Francisco (COTP) in the enforcement of the special local regulation.

(2) *Zone “A”* means the Official Practice Box Area. This zone will encompass all navigable waters of the San Francisco Bay, from surface to bottom, within the area formed by connecting the following latitude and longitude points in the following order: 37°49'19" N, 122°27'19" W; thence to 37°49'28" N, 122°25'52" W; thence to 37°48'40.9" N, 122°25'43.6" W; thence to 37°49'7.5" N, 122°25'13" W and thence to the point of beginning. These coordinates are the current projected position for the Official Practice Box Area and will also be announced via Broadcast Notice to Mariners.

(3) *Zone “B”* means the Official Race Box Area, which will be marked by 12 or more colored visual markers within the special regulation area designated in paragraph (a). The position of these markers will be specified via Broadcast Notice to Mariners at least three days prior to the event.

(4) *Zone “C”* means the Spectator Area, which is within the special local regulation area designated in paragraph (a) and outside of Zone “B,” the Official Race Box Area. Zone “C” will be defined by latitude and longitude points via Broadcast Notice to Mariners and will be managed by marine event sponsor officials. Vessels shall not anchor within the confines of Zone “C.”

(c) *Special Local Regulation.* The following regulations apply between noon and 5:30 p.m. on the Sail Grand Prix official practice and race days.

(1) Only support and race vessels will be authorized by the COTP or designated representative to enter Zone “B” during the race event. Vessel operators desiring to enter or operate with Zone “A” or Zone “B” must contact the COTP or a designated representative to obtain permission to do so. Persons and vessels may request permission to transit Zone “A” on VHF-23A.

(2) Spectator vessels in Zone “C” must maneuver as directed by the COTP or designated representative. When hailed or signaled by the COTP or designated representative by a succession of sharp, short signals by whistle or horn, the hailed vessel must come to an immediate stop and comply with the lawful direction issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

(3) Spectator vessels in Zone “C” must operate at safe speeds, which will create minimal wake.

(4) Vessels with approval from COTP or designated representative to transit through the associated event zones shall maintain headway and not loiter or anchor within the confines of the regulated area.

(5) Rafting and anchoring of vessels is prohibited within the regulated area.

(d) *Enforcement periods.* This special local regulation will be enforced for the official practices and race events from noon to 5:30 p.m. each day from May 4, 2023, through May 7, 2023. At least 24 hours in advance of the official practice and race events commencing on May 4, 2023, the COTP will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners and in writing via the Coast Guard Boating Public Safety Notice.

Dated: April 18, 2023.

Taylor Q. Lam,

Captain, U.S. Coast Guard,

Captain of the Port, Sector San Francisco.

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